

1 Whitney C. Wilcher, Esq.
2 THE WILCHER FIRM
3 Nevada State Bar No. 7212
4 8465 West Sahara Avenue
5 Suite 111-236
6 Las Vegas, NV 89117
7 Email: wcw@nevadaada.com
8 *Attorney for Plaintiff*

9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 Kevin Zimmerman, an Individual

12 Plaintiff,

13 v.

14 Smith's Food & Drug Centers, Inc.,

15 Defendant.
16

Civil Action No: 2:17-cv-01194-GMN-GWF

**STIPULATED MOTION AND ORDER TO
STAY PROCEEDINGS**

17
18 Plaintiff Kevin Zimmerman and Defendant Smith's Food & Drug Centers, Inc., by and
19 through their respective undersigned counsel, hereby move this Court for and Order staying all
20 proceedings. A stay in this matter would be appropriate until the resolution of the pending
21 Motion to Dismiss to be filed by the Nevada Attorney General in *Zimmerman v. GJS Group,*
22 *Inc.*, 2:17-cv-00304-GMN-GWF.

23 **Factual Background**

24 On August 8, 2017, the State of Nevada ex rel. Adam Paul Laxalt, the Nevada Attorney
25 General moved to intervene in *Zimmerman v. GJS Group* for the limited purpose of seeking
26 consolidation of similar actions, including this Case, filed by the Plaintiff in *Zimmerman v. GJS*
27 *Group* and this Action. On October 11, 2017, this Court ordered, in part, that the State of
28

1 Nevada's Motion to Intervene is granted and the State of Nevada may move for consolidation
2 of this action and other actions filed by Plaintiff Zimmerman. The Parties file this Stipulated
3 Motion to Stay in anticipation of the motion to consolidate this action and the State of Nevada's
4 Motion to Dismiss all consolidated cases.

5 Legal Memorandum

6 "The power to stay proceedings is incidental to the power inherent in every court to
7 control the disposition of the causes on its own docket with economy of time and effort for
8 itself, for counsel, and for litigants." *LaSala v. Needham & Co., Inc.*, 399 F. Supp. 2d 421, 427
9 (S.D.N.Y. 2005) (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254, 57 S. Ct. 163 (1936)).

10 In this Action, this Court has set a scheduling order which the parties have followed.
11 The upcoming dates require the parties to continue participation in the litigation including
12 disclosure of documents, identifying expert witnesses, deposing individuals, moving for
13 dispositive rulings, and other dates designed to lead this case to a prompt trial date. It would not
14 be economical for the parties to this action to pay attorneys' fees, expert costs, and invest time
15 in pursuit of, or defense against, claims given the State of Nevada's pending motion to
16 consolidate and planned motion to dismiss. It would not be economical for this court to
17 consider and rule upon requests from the parties in light of the State of Nevada's pending
18 motions. All discovery, motions practice, investigations, legal work, and associated efforts
19 would be a waste of resources and a drain on this court's limited resources if the consolidation
requested is granted.

20 If the consolidation requested by the State of Nevada is denied, neither party will be
21 prejudiced, but will still be in a position to pursue or defend against Plaintiff's discrimination
22 claims which occurred on the date alleged in the complaint.

23
24
25
26
27
28

1 The Parties therefore respectfully move for a stipulated order staying all proceedings in
2 this case until after the court in *Zimmerman v. GJS Group* rules on the State of Nevada's
3 Motion to Consolidate.
4

5 **RESPECTFULLY** submitted on this 20th day of November, 2017.
6

7 /s/ Whitney C. Wilcher
Whitney C. Wilcher, Esq.
THE WILCHER FIRM
8 Nevada State Bar No. 7212
8465 West Sahara Avenue
9 Suite 111-236
Las Vegas, NV 89117
10 Email: wcw@nevadaada.com
Attorney for Plaintiff

/s/ Gregory Francis Hurley
Gregory Francis Hurley, Esq.
Sheppard Mullin Richter & Hampton
650 Town Center Dr., 4th Flr.
Costa Mesa, CA 92626
ghurley@sheppardmullin.com
Attorney for Defendant
Pro Hac Vice

11
12
13
14 **IT IS SO ORDERED.**

15
16 
UNITED STATES MAGISTRATE JUDGE

17 DATED: November 21, 2017
18
19
20
21
22
23
24
25
26
27
28

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 20th day of November, 2017, I electronically
3 transmitted the foregoing document to the Clerk's Office using the CM/ECF System for
4 filing and transmittal of a Notice of Electronic Filing to the following CM/ECF
5 registrants:

6 Gregory Francis Hurley
7 Sheppard Mullin Richter & Hampton, LLP
8 650 Town Center Dr., 4th Flr.
9 Costa Mesa, CA 92626
ghurley@sheppardmullin.com
Attorney for Defendant

10
11
12
13
14 by: /s/ Sydney Rogers
15
16
17
18
19
20
21
22
23
24
25
26
27
28